

REMARKS

Status of the Claims

Claims **1-8, 10, and 13-27** were presented for examination. In the Office Action, claims **1, 2, 4, 5, 10, 14-19, 22, 23 and 25** were rejected under 35 USC § 102(e) as allegedly anticipated by U.S. Patent 6,754,414 to Naghieh (hereafter “Naghieh”). In the Office Action, claims **3, 13, 20 and 24** were rejected under 35 USC § 103(a) as allegedly unpatentable over Naghieh. In the Office Action, claims **6-8, 21, 26, and 27** were identified as allowable if rewritten in independent form including all limitations of the rejected base claim and any intervening claims.

In this Response, Applicant amends claims **1 and 10**, and adds new claims **28 and 29**. Support for the amendments and new claims can be found throughout the specification at least at paragraphs 0049, 0051, 0073, FIGS. **1-3** and related discussions. Upon entry of this Response, claims **1-8, 10, and 13-29** will be presented for examination.

35 USC § 102(e) Rejections of Claims: 1, 2, 4, 5, 10, 14-19, 22, 23 and 25

In the Office Action, claims **1, 2, 4, 5, 10, 14-19, 22, 23 and 25** were rejected under 35 USC § 102(e) as allegedly anticipated by Naghieh. In particular, base claims **1 and 10** were rejected as anticipated by Naghieh.

Applicant amends base claims **1 and 10** to recite, “at least a portion of the excitation optical path and detection optical path are substantially coaxial.” Nowhere does Naghieh disclose an excitation optical path and detection optical path which are substantially coaxial. Rather, Naghieh shows in **FIG. 1** and teaches (Col. 3, lines 1-16) “separating the excitation and emission light paths.” Naghieh does not disclose each and every aspect of Applicant’s amended base claims **1 and 10**. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejections of claims **1, 2, 4, 5, 10, 14-19, 22, 23 and 25** under 35 USC § 102(e) to the extent the rejection is maintained against the claims as amended.

35 USC § 103(a) Rejections of Claims: 3, 13, 20 and 24

In the Office Action, claims **3, 13, 20 and 24** were rejected under 35 USC § 103(a) as allegedly unpatentable over Naghieh in view of facts relied upon from personal knowledge of the Examiner.

Applicant amends base claims **1 and 10** to recite, “at least a portion of the excitation

optical path and detection optical path are substantially coaxial.” Nowhere does Naghich teach or suggest an excitation optical path and detection optical path which are substantially coaxial. Rather, Naghich shows in **FIG. 1** and teaches (Col. 3, lines 1-16) “separating the excitation and emission light paths.” This teaches away from Applicant’s claimed invention. The facts from personal knowledge relied upon by the Examiner in regards to claims 3, 13, 20 and 24 do not overcome the deficiencies of Naghich. Applicant submits that claims 3, 13, 20 and 24 now depend from allowable base claims. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejections of claims 3, 13, 20 and 24 under 35 USC § 103(a) to the extent the rejection is maintained against the claims as amended.

CONCLUSION

In view of the above, Applicant submits that all presently pending claims are in condition for allowance, and early indication thereof is respectfully requested. If the Examiner feels that a telephone call would expedite the prosecution of this case, the Examiner is invited to call the undersigned at (617) 248-4801.

Respectfully submitted,
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Date: April 28, 2008

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